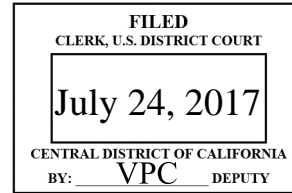


JS-6



JAMES HOROSNY, et al,

Plaintiffs,

vs.

BURLINGTON COAT FACTORY OF
CALIFORNIA, LLC, et al,

Defendants.

CASE NO.: 2:15-cv-05005-SJO-MRWx

CLASS ACTION

**~~PROPOSED~~ ORDER AND
JUDGMENT:**

- (1) CONFIRMING
CERTIFICATION OF
SETTLEMENT CLASS;**
- (2) GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**
- (3) APPROVING CLASS
REPRESENTATIVE
ENHANCEMENT PAYMENTS**
- (4) AWARDING CLASS COUNSEL
FEES AND COSTS**
- (5) APPROVING SETTLEMENT
ADMINISTRATOR FEES**
- (6) ENTERING FINAL JUDGMENT**

Courtroom: 10C
(First Street Courthouse)

Date: July 24, 2017

Time: 10:00 a.m.

Judge: Hon. S. James Otero

1 This matter has come before the Court pursuant to Plaintiffs' Unopposed Motion
 2 for Final Approval of Class Action Settlement ("Motion for Final Approval") and
 3 Plaintiffs' Motion for Attorneys' Fees and Costs, Costs of Administration, and
 4 Representative Enhancement Payments (ECF Doc. 78) ("Motion for Attorneys' Fee")
 5 (collectively, the "Motions").

6 The Court, having considered the Motion for Final Approval, the Motion for
 7 Attorneys' Fees, as well as the accompanying memoranda of points and authorities,
 8 declarations of Christopher J. Morosoff, Douglas Caiafa, Lana Lucchesi, as well as the
 9 Amended Settlement Agreement between Plaintiffs James Horosny and Jennifer Price
 10 ("Plaintiffs") and Defendant Burlington Coat Factory of California, LLC ("Burlington" or
 11 "Defendant"), and all of the files, records, and proceedings herein, and it appearing to the
 12 Court after considering the papers and the arguments in connection with the Motions, that
 13 the Settlement is fair, reasonable and adequate, and that adequate notice of the Settlement
 14 has been provided to the Settlement Class in compliance with due process, and that a
 15 Judgment approving the Settlement and an Order dismissing the Action based upon the
 16 Settlement should be entered;

17 **NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:**

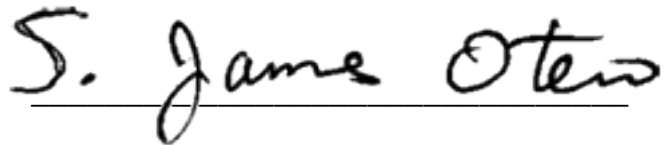
- 18 1. The Court has jurisdiction over this action and the Parties' Proposed Settlement
 19 under 28. U.S.C. §§ 1332(d) and 1453 pursuant to the Class Action Fairness Act
 20 since the amount in controversy exceeds \$5,000,000 and because of the complete
 21 diversity between Plaintiffs and Defendant.
- 22 2. For the reasons stated in the Order Preliminarily Approving Class Action
 23 Settlement and Certifying Settlement Class (ECF Doc. 77) ("Preliminary Approval
 24 Order"), the Court finds that the action meets all the requirements for class
 25 certification, and it is hereby ordered that the Settlement Class is finally approved
 26 and certified as a class for purposes of settlement of this action.
- 27 3. The Parties' Amended Settlement Agreement ("ASA") (attached as Exhibit A to
 28 the Declaration Douglas Caiafa) is granted final approval as it meets the criteria for

final settlement approval. The Settlement falls within the range of possible approval as fair, adequate, and reasonable, and appears to be the product of arm's-length and informed negotiation and to treat all Class Members fairly.

4. Notice to Class Members of the Settlement as described in the ASA and the Preliminary Approval Order, including the Merchandise Certificate and Postcard Notice, Class Notice, Summary In-Store Notice, Summary Publication Notice, Email Notice and Opt Out Notice (attached as Exhibits A, B, C, E, F and G to the ASA), were sufficient to inform Class Members of the terms of the Settlement; their rights under the Settlement; their rights to object to the Settlement; their right to receive a Merchandise Certificate with a cash option, or elect not to participate in the Settlement; the processes for receiving a Merchandise Certificate with a cash option, electing not to participate in the Settlement, or objecting to the Settlement; and the date and location of the final approval hearing. Therefore, the Court finds and determines that the Notice to Class Members was complete and constitutionally sound, because individual notices were mailed and/or emailed to all Class Members whose identities and addresses are reasonably known to the Parties, and Notice was published in accordance with this Court's Preliminary Approval Order, and such notice was the best notice practicable.
5. Class Members were provided with the opportunity to comment on, or object to the Settlement, as well as to elect not to participate in the Settlement. Only 51 Class Members elected to not participate in the Settlement, and no Class Member objected to the Settlement.
6. KCC is awarded \$1,137,000 for their services as Settlement Administrator, pursuant to the terms set forth in the ASA.
7. Class Representatives James Horosny and Jennifer Price are each awarded the sum of \$5,000 as a Class Representative Payment pursuant to the terms set forth in the ASA.

- 1 8. Class Counsel is awarded \$927,500, as attorneys' fees and costs pursuant to the
2 terms set forth in the ASA.
- 3 9. By means of this Final Order and Judgment, this Court hereby enters Final
4 Judgment in this action, as defined in Rule 54, Federal Rules of Civil Procedure.
- 5 10. This action is dismissed with prejudice, each side to bear its own costs and
6 attorneys' fees except as provided by the ASA and this Final Order and Judgment.
- 7 11. The Court hereby reserves its exclusive, general and continuing jurisdiction over
8 the ASA as needed or appropriate in order to administer, supervise, implement,
9 interpret or enforce the Settlement in accordance with its terms.
- 10

11
12 Dated: July 24, 2017



Hon. S. JAMES OTERO
UNITED STATES DISTRICT COURT

13
14
15
16
17
18
19
20 JS-6

